

June 18, 2009

RULE 7

**APPLICATION FOR PERMISSION TO IMPORT WASTE
GENERATED OUTSIDE THE REGION**

7.1 Purpose and General Provisions

The purpose of this Rule 7 is to implement Article 7, Section C of the Compact which prohibits any person from managing waste in the region which was generated outside the region, without authorization from the Board and to authorize the import of devices containing sources or sealed sources to the region for return to the manufacturer of the device.

7.1.1 Import Permit Required

No person shall import waste generated outside the region, other than devices containing sources or sealed sources that are to be imported for return to the manufacturer of the device, for management within the region unless an import permit has been issued pursuant to this Rule 7.

7.1.2. Applicability

Sections 7.2 through 7.11 apply to all wastes generated outside the region that are to be imported into the region for disposal at the Clean Harbors Deer Trail Regional Facility (Regional Facility).

Sections 7.12 through 7.21 apply to all wastes generated outside the region that are to be imported into the region for management at facilities other than the Regional Facility.

Section 7.22 shall apply to all devices containing sources or sealed sources that are to be imported to the region for return to the manufacturer of the device.

Import for Disposal at the Regional Facility

7.2 Import Application for Disposal at the Regional Facility

Any person seeking the authorization of the Board pursuant to Article 7, Section C of the Compact to import waste which was generated outside the region for disposal at the Regional Facility shall submit a written application (“Import Application”) to the Executive Director for permission to import waste. Import Applications along with the applicable application fee should be submitted to the Executive Director at least three weeks prior to the time importation is intended to take place.

No person shall import waste generated outside the region until the Board or Executive Director has issued an Import Permit pursuant to this Rule 7.2 through 7.11.

7.3 Import Application for Disposal at the Regional Facility

The following application materials and application review process shall apply to Import Applications for disposal at the Regional facility.

7.3.1 Import Application for Disposal at the Regional Facility

The applicant shall file the Import Application together with the appropriate Import Application Fee with the Executive Director at least three weeks prior to the date that the import of the waste is intended to take place.

7.3.2 Application Fee to Import Waste for Disposal at the Regional Facility

- A. The Import Application Fee for disposal at the Regional Facility shall be calculated as follows:

<u>VOLUME</u>	<u>FEE</u>
0-1,000 cubic yards	\$200
>1,000 cubic yards	\$100 + 0.10/cubic yard
MAXIMUM FEE NOT TO EXCEED \$10,000	

- B. Any amendment to an Import Permit that does not result in an increase in the volume of waste shall be accompanied by a fee of \$100.00. Amendments that result in an increase in volume shall be charged the same fee as a new Import Application for the increase in volume.

7.3.3 Contents of Application to Import Waste for Disposal at the Regional Facility

The Import Application for Disposal at the Regional Facility must be on official letterhead signed by an authorized official of the entity seeking an Import Permit. If the applicant is different than the generator, both the applicant and the generator must sign the application. The Import Application shall contain the following:

- A. The name, address and telephone number of the person seeking to import the waste;

- B. The name, address, telephone number, and radioactive materials license number of the person who generated the waste;
- C. A description of the type of waste which the applicant seeks to import;
- D. The volume (in cubic yards) of the waste that applicant seeks to import;
- E. The quantity of Uranium and Thorium in the waste in kilograms and in percent by weight;
- F. The summed activity of all naturally-occurring radioactive material (NORM) and technologically-enhanced naturally-occurring radioactive material (TENORM) radionuclides in picocuries per gram;
- G. The concentration of Radium-226 in picocuries per gram;
- H. The date on which the import is estimated to take place; and
- I. A certification from the generator that the generator is licensed and/or permitted to, and agrees to, receive back the waste if it cannot be disposed of.

7.4 Transmission of Application to Import Waste for Disposal at the Regional Facility

Upon receipt of an application conforming to the requirements of Rule 7.3., the Executive Director shall notify the members of the Board of the receipt of the application. In the notification, the Executive Director shall notify the Board whether he intends to exercise the authority under Rule 7.7 to make the permit decision, or whether the Board will make the decision on the permit application.

7.5 Factors to be Considered in Review of Import Applications for Disposal at the Regional Facility

The following factors shall apply to the Board's review of an import application:

- A. The impact of importing waste on the available capacity and projected life of the regional facilities;
- B. The economic impact on the regional facilities;

- C. The availability of a regional facility appropriate for the disposal of the type of waste involved;
- D. The existence of any reciprocal agreements or arrangements with other regional compact Boards or individual states;
- E. The volume, type, radioactivity, and source of waste; and
- F. The existence of unresolved violations pending against the applicant or generator whose waste is included in the application.

7.5.1 Host State Authorization

The Board shall not give its approval to the importation of waste pursuant to this Rule 7 unless or until the authorization of the State of Colorado is obtained pursuant to Rule 10.

7.6 Decision by the Board on the Import Application for Disposal at the Regional Facility

The Board may take one of the following actions on the Import Application:

- A. Approve the Import Permit; or
- B. Deny the Import Permit; or
- C. Approve the Import Permit with conditions.
 - (1) The Board may impose any conditions reasonably related to furthering the purposes of the Compact and these Rules.
 - (2) The applicant shall either accept the conditions in writing within thirty (30) calendar days of the conditional approval or prior to the import of the waste (whichever occurs first). If timely acceptance is not received, the Import Permit shall become void.

7.7 Delegation of Authority to the Executive Director to Act on Import Applications for Disposal at the Regional Facility

The Board hereby delegates to the Executive Director the authority to act on an Import Application for disposal at the Regional Facility in the circumstances described in Section 7.7 A, below. The Executive Director may at his discretion refer the application to the Board for action rather than exercise this delegated authority.

- A. The total volume of waste sought to be imported in the application does not exceed 50,000 cubic yards; and
- B. The Executive Director considers the factors set forth in Rule 7.5; and
- C. The import has been authorized by the State of Colorado pursuant to Rule 10.

7.8 Executive Director Decision on Import Applications for Disposal at the Regional Facility

The Executive Director may take one of the following actions on the Import Application:

- A. Approve the Import Permit; or
- B. Deny the Import Permit; or
- C. Approve the Import Permit with conditions.
 - (1) The Executive Director may impose any conditions on the Import Permit reasonably related to furthering the purposes of the Compact and these Rules.
 - (2) The Applicant shall either accept the conditions in writing within thirty (30) calendar days of the conditional approval or prior to the import of the waste (whichever occurs first). If timely written acceptance is not received, the Import Permit shall become void.

7.9 Transmission of Import Permits for Disposal at the Regional Facility

Whenever an application to import waste for disposal at the Regional Facility has been approved, the Executive Director shall notify the applicant, the members of the Board, the operator of the Regional Facility, and the State of Colorado.

7.10 Request for Reconsideration of Executive Director Denial of Import Application for Disposal at the Regional Facility

If the Executive Director denies a complete application, the applicant may, within ten days of notification of the denial, file a written request for reconsideration of the application. Any such application will be considered by the Board, de novo, pursuant to Rule 7.3 and 7.5.

7.11 Agreements to Import Waste

Nothing in this Rule 7 shall limit the authority of the Board to enter into agreements with the United States, regional facility operators, other regional compact Boards, or individual states to import wastes on a continuing basis.

Import for Management at Facilities Other than the Regional Facility

7.12 Import Application for Management at Facilities Other than the Regional Facility

Any person seeking the authorization of the Board pursuant to Article 7, Section C of the Compact to import waste which was generated outside the region for management at any facility other than the Regional Facility shall submit a written application to the Executive Director for permission to import waste. Applications should be submitted at least three weeks prior to the time importation is intended to take place.

No person shall import waste generated outside of the region until the Board or Executive Director has issued an Import Permit pursuant to this Rule 7.12 through 7.21.

7.13 Import Application for Facilities Other than the Regional Facility

The following application materials and application review process shall apply to Import Applications for management at any facility other than the Regional facility.

7.13.1 Import Application for Facilities Other than the Regional Facility

The Applicant shall file the Import Application together with the appropriate Import Application Fee with the Executive Director at least three weeks prior to the date that the import of the waste is intended to take place.

7.13.2 Application Fee for Facilities Other than the Regional Facility

- A. The Import Application Fee for facilities other than the Regional Facility shall be \$500 or \$0.10 per cubic foot of waste for which import approval is sought, whichever is greater.
- B. Any amendment to an Import Permit that does not result in an increase in the volume of waste shall be accompanied by a fee of \$100.00. Amendments that result in an increase in volume shall be charged \$500 or \$0.10 per cubic foot of waste for which import approval is sought, whichever is greater.

7.13.3 Content of Application to Import Waste to Facilities other than the Regional Facility

Applications must be on official letterhead signed by an authorized official of the entity seeking an Import Permit. If the applicant is different than the generator, both the applicant and the generator must sign the application. The Import Application shall contain the following:

- A. The name, address and telephone number of the person seeking to import the waste;
- B. The name, address, telephone number, and radioactive materials license number of the person who generated the waste;
- C. Type of waste (categorized according to Appendix A) which the applicant seeks to import;
- D. For each type of waste which the applicant seeks to import, the volume (in cubic feet) and principal chemical form of the waste;
- E. The identity of waste classified as Class A, Class B, or Class C in accordance with Section 61.55 of Title 10, Code of Federal Regulations, as in effect on January 26, 1983; or a list of the radionuclides and their concentrations contained in the waste if it is not Class A, B, or C;
- F. For each type of waste which the applicant seeks to import: the quantity of byproduct material in curies; source material in kilograms; special nuclear material in grams; transuranic waste in nanocuries per gram and total weight in grams of the transuranic elements; and naturally occurring and accelerator produced radioactive material in picocuries per gram and total weight in kilograms;
- G. The facility at which the waste will be managed;
- H. The manner in which each type of waste will be managed;
- I. Following treatment, the volume (in cubic feet) of waste and the quantity of byproduct material in curies; source material in kilograms; special nuclear material in grams; transuranic waste in nanocuries per gram and

total weight in grams of the transuranic elements; and naturally occurring and accelerator produced radioactive material in picocuries per gram and total weight in kilograms which will require disposal;

- J. The facility at which the disposal of wastes and residues resulting from waste management will take place;
- K. The date on which the wastes and residues are estimated to be disposed of; and
- L. A certification from the generator that the generator is licensed and/or permitted to, and agrees to, receive back the waste and residues if they cannot be managed or disposed of.

7.14 Transmission of Application to Import Waste to Facilities Other than the Regional Facility

Unless the Executive Director chooses to exercise the power delegated under Rule 7.17, upon receipt of an application conforming with the requirements of Rule 7.13, the Executive Director shall notify the members of the Board and the state in which management of the waste would take place of the receipt of the application.

7.15 Factors to be Considered in Review of Import Applications for Facilities Other than the Regional Facility

The Board shall consider the application utilizing the following factors:

- A. The impact of importing waste on the available capacity and projected life of the regional facilities;
- B. The economic impact on the regional facilities;
- C. The availability of a regional facility appropriate for the disposal of the type of waste involved;
- D. The existence of any reciprocal agreements or arrangements with other regional compact Boards or individual states;
- E. The facility at which disposal of managed wastes and residues resulting from waste management will take place;

- F. The volume, type, radioactivity, and source of waste involved and the volume, type, radioactivity, of waste remaining for further management or disposal;
- G. Whether the waste will be managed at a regional facility;
- H. The length of time the waste will remain in the Rocky Mountain Compact Region for management;
- I. The availability of disposal facilities to dispose of the waste following management; and
- J. The existence of unresolved violations pending against the applicant or generator whose waste is included in the application.

7.15.1 Host State Authorization

The Board shall not give its approval to the importation of waste pursuant to this Rule 7, unless or until the authorization of the state in which said management would take place is obtained pursuant to Rule 10.

7.16 Decision by the Board on Import Applications to Facilities Other than the Regional Facility

The Board may take one of the following actions on the Import Application:

- A. Approve the Import Permit; or
- B. Deny the Import Permit; or
- C. Approve the Import Permit with conditions.
 - (1) The Board may impose any conditions reasonably related to furthering the purposes of the Compact and these Rules.
 - (2) The Applicant shall either accept the conditions in writing within thirty (30) calendar days of the conditional approval or prior to the import of the waste (whichever occurs first). If timely acceptance is not received, the Import Permit shall become void.

7.17 Delegation of Authority to the Executive Director to Act on Import Applications for Facilities Other than the Regional Facility

The Board hereby delegates to the Executive Director the authority to act on an Import Application for Facilities Other than the Regional Facility in the circumstances described in Section 7.17 A, below. The Executive Director may at his discretion refer the application to the Board for action rather than exercise this delegated authority.

- A. The total volume of waste sought to be imported in the application does not exceed 5,000 cubic feet;
- B. The Executive Director considers the factors set forth in Rule 7.15; and
- C. The state in which the management is proposed to occur authorizes the import pursuant to Rule 10.

7.18 Executive Director Decision on Import Applications for Facilities Other than the Regional Facility

The Executive Director may take one of the following actions on the Import Application

- A. Approve the Import Permit; or
- B. Deny the Import Permit; or
- C. Approve the Import Permit with conditions.
 - (1) The Executive Director may impose any conditions on the Import Permit reasonably related to furthering the purposes of the Compact and these Rules.
 - (2) The Applicant shall either accept the conditions in writing within thirty (30) calendar days of the conditional approval or prior to the import of the waste (whichever occurs first). If timely written acceptance is not received, the Import Permit shall become void.

7.19 Permit Fee for Import to Facilities Other than the Regional Facility

No Import Permit for management at facilities other than the Regional Facility shall be effective until the applicant has paid a permit fee of \$500 or \$0.35 per cubic foot of waste

for which approval is sought, whichever is greater. This permit fee is in addition to the Application Fee in Rule 7.13.2

7.20 Transmission of Import Permit for Management at Facilities Other than the Regional Facility

Whenever an application to import waste pursuant for management at facilities other than the Regional Facility has been approved, the Executive Director shall notify the members of the Board, the operator of the facility at which the waste is to be managed, and the state in which such management is to take place.

7.21 Agreements to Import Waste

Nothing in this Rule 7 shall limit the authority of the Board to enter into agreements with the United States, regional facility operators, other regional compact Boards, or individual states to import wastes on a continuing basis.

Import of Devices Containing Sources or Sealed Sources that were Manufactured in the Region

7.22 Authorization of Import of Devices Containing Sources or Sealed Sources for Return to Manufacturer of the Devices

Devices containing sources or sealed sources may be imported to the region for return to the manufacturer of the device without obtaining an import permit or other authorization from the Board.

The revised Rule 7 shall be effective and apply to any application received on or after July 1, 2009.